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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,455	04/12/2004	James D. Cook	MTEZ 2 00035-1	2908
27885	7590	03/17/2008		
FAY SHARPE LLP 1100 SUPERIOR AVENUE, SEVENTH FLOOR CLEVELAND, OH 44114			EXAMINER SINGH, SUNIL	
			ART UNIT 3672	PAPER NUMBER
			MAIL DATE 03/17/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/822,455

Applicant(s)

COOK, JAMES D.

Examiner

Sunil Singh

Art Unit

3672

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 33, 43, 46, 49, 50, 53-55, 57-64, 67, 68, 70-74 and 76-81 is/are pending in the application.
- 4a) Of the above claim(s) 59-64, 72, 77 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 33, 49, 53-55, 58, 71, 73 and 74, 78 is/are allowed.
- 6) ☒ Claim(s) 43, 46, 50, 67, 68, 70, 76, 80 and 81 is/are rejected.
- 7) ☒ Claim(s) 57 and 79 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-846)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 43 is rejected under 35 U.S.C. 102(b) as being anticipated by Ernst et al. '759.

Ernst et al. discloses a bolt and anchor assembly comprising an elongated bolt (20,22), a shell (30), expansion member (40), a support device (shell support) (29), engagement between said support device and said shell sequentially forces said shell into said expansion member to expand said shell to anchor said elongated in said associated bore hole (see col. 4 line 60+, col. 5 lines 1-16, col. 7 lines 1-10) and then allows axial movement of said support device in a direction toward and relative to said shell (see abstract, col. 4 lines 10-50, col. 7 line 5+). Base ring (32,33), fingers (35). Tapered surfaces (28,23, see Fig. 4) for both the support device and shell.: Notch/split (36). Resin (see Figure 4).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 50, 70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ernst et al. in view of Steward (US 508254)

Ernst et al. discloses the invention substantially as claimed. However, Ernst et al. is silent about the support device being threadedly received on the bolt. Steward teaches a support device (see Fig. 4) being threadedly received on a bolt. It would have been considered obvious to one of ordinary skill in the art to modify Ernst et al. by making the support device threadedly received on the bolt as taught by Steward since such modification allows the user to adjust/control when member (32) expands. It should be noted that Ernst et al. suggest for support (29) to be integral with the bolt and/or separate (see col. 3). Therefore, it would have been considered obvious to one of ordinary skill in the art to modify Ernst et al. to have a threaded support since it is obvious to choose from a finite number of identified, predictable solutions, with a reasonable expectation of success (see reasons discussed above)

5. Claims 46, 67, 68, 76, 80, 81 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ernst et al. in view of Clark et al. (US 5011337)

Ernst et al. discloses the invention substantially as claimed. However, Ernst et al. is silent about using the expansion anchor as a mine roof bolt. Clark et al. teaches using expansion anchor as a mine roof bolt is old and well known (see Figs. 11-13). Therefore, it would have been considered obvious to one of ordinary skill in the art to

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modify Ernst et al. by using his expansion anchor as a mine roof bolt expansion anchor as taught by Clark et al. since such a modification provides additional use of his anchor.

6. Claims 80-81 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ernst et al. in view of Clark et al. as applied to claim 46 above, and further in view of Steward '254.

Ernst et al. (once modified) discloses the invention substantially as claimed. However, the (once modified) Ernst et al. is silent about the support device being threadedly received on the bolt. Steward teaches a support device (see Fig. 4) being threadedly received on a bolt. It would have been considered obvious to one of ordinary skill in the art to further modify the (once modified) Ernst et al. by making the support device threadedly received on the bolt as taught by Steward since such modification allows the user to adjust/control when member (32) expands. It should be noted that Ernst et al. suggest for support (29) to be integral with the bolt and/or separate (see col. 3). Therefore, it would have been considered obvious to one of ordinary skill in the art to modify Ernst et al. to have a threaded support since it is obvious to choose from a finite number of identified, predictable solutions, with a reasonable expectation of success (see reasons discussed above)

Allowable Subject Matter

7. Claims 33,49, 53-55, 58,71,73-74,78 are allowed.

Claims 57,79 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

8. Applicant's arguments filed 1/24/08 have been fully considered but they are not persuasive. With regards to claim 43, applicant argues that member 32 must be construed as fingers. It should be noted that applicant's figure 4a and specification paragraph [0049] indicate that the base portion includes one or more slots. With this being the case, in as much applicant base includes slots and does not constitute fingers then so does Ernst et al. With regards to the motivation of having the support device threadedly connected to the bolt, such an arrangement allows the user to adjust/control when member 32 expands.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sunil Singh whose telephone number is (571) 272-7051. The examiner can normally be reached on Monday through Friday 10:30 AM - 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bagnell can be reached on (571) 272-6999. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sunil Singh/
Primary Examiner, Art Unit 3672

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Primary Examiner
Art Unit 3672

SS

3/3/08